

July 18, 2005

TODD DONOVAN
2407 CHERRY ST
BELLINGHAM WA 98225

Subject: Complaint Filed Against Better Community Solutions – PDC Case No. 06-002

Dear Mr. Donovan:

The Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received June 29, 2005 alleging violations of RCW 42.17 by Better Community Solutions (BCS).

You alleged: 1) that BCS failed to fully disclose the identity of two contributors, by using initials in place of the contributors' full names; 2) that a \$121 anonymous contribution to BCS was not fully disclosed as required, and that the committee in fact concealed the source of this contribution; 3) that BCS failed to file a special report of independent expenditure for political advertising after sponsoring an insert in *The Bellingham Herald* opposing three candidates running for positions on the Bellingham City Council or the Whatcom County Council; and 4) that BCS failed to include complete sponsor identification on the newspaper insert when it failed to include the required "NOTICE TO VOTERS" language and a listing of its top five contributors for an independent expenditure.

The PDC Staff reviewed your allegations in light of the following statutes and administrative rule:

RCW 42.17.060 prohibits the deposit or spending of accumulated unidentified contributions in excess of \$300, or 1% of the total contributions received in the current calendar year, whichever is greater.

RCW 42.17.080 and RCW 42.17.090 require timely, complete reports of contributions and expenditures, including the full names and addresses of contributors.

RCW 42.17.100 requires the sponsor of an independent expenditure political advertisement valued at more than \$100 to file a special report (PDC form C-6) within

five days of the date of the expenditure, if the expenditure is not otherwise required to be reported on the PDC's regular series of contribution and expenditure reports.

RCW 42.17.103 requires the sponsor of an independent expenditure political advertisement valued at more \$1,000 and presented to the public within twenty-one days of an election to file a special report (PDC form C-6) within twenty-four hours of the date that the expenditure is made public.

RCW 42.17.120 states that no contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.

RCW 42.17.510 requires a political committee that sponsors independent expenditure political advertising as defined in RCW 42.17.020(24) to identify itself as the sponsor of the advertisement using special "NOTICE TO VOTERS" language, and to list its top five contributors during the twelve-month period before the date of the advertisement.

WAC 390-05-210 defines "contribution" to include an "expenditure...made by or in consultation with any person who, during the current election cycle, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, the candidate's authorized committee or agent."

We found that:

Use of initials on its contribution reports in place of the full names of contributors - The committee filed C-3 reports identifying the contributor Associated General Contractors as "AGC," and the Whatcom County Republican Party as "WCRP," and included both contributors' full address. Although these two contributors are recognizable from their initials, the committee has amended its C-3 reports to indicate the contributors' full names. No evidence was submitted with the complaint showing that BCS' use of the contributors' initials constituted an attempt to conceal their identities.

Alleged concealment of \$121 in contributions - BCS filed a C-3 report listing, among other itemized contributions, a \$121 contribution attributed to "anonymous." This sum represented unidentified cash contributions found while cleaning-up after a BCS fundraiser. Although such receipts are properly reported on line 1a of the C-3 report (anonymous contributions) rather than line 2 (itemized contributions), the \$121 in anonymous contributions does not exceed the allowable limit which is the greater of \$300 or one percent of the committee's total contributions. In addition, no evidence was submitted with the complaint showing that BCS sought to conceal the source of the funds.

Alleged failure to file a special C-6 report of independent expenditure for political advertising - The committee had no filing requirement under RCW 42.17.100 because its

expenditures were required to be disclosed in its regular series of political committee reports. The committee also had no filing requirement under RCW 42.17.103 because its newspaper insert was not presented to the public within twenty-one days of an election.

Alleged failure to properly identify itself as the sponsor of independent expenditure political advertising by using the required "NOTICE TO VOTERS" language in its newspaper insert, and by including a listing of its top five contributors - The insert did not qualify as an independent expenditure with respect to Anna Williams and Gary Lysne (the opponents of Barbara Ryan and Seth Fleetwood, two candidates opposed in the insert) but instead constituted an in-kind contribution to these candidates' campaigns. A level of coordination existed between BCS and the campaigns of Ms. Williams and Mr. Lysne, in that each candidate had retained Charlie Crabtree, the treasurer of Better Community Solutions at the time the insert was sponsored, as a paid campaign consultant. WAC 390-05-210(3) states that an expenditure made by a political committee under these circumstances is a contribution from the committee to the benefited candidates.

In the case of the third candidate opposed in BCS' newspaper insert, Laurie Caskey-Schreiber, the insert benefited her opponent, Tom Anderson, but no coordination or consultation occurred between BCS and Mr. Anderson's campaign. With respect to this candidate, the BSC insert did constitute an independent expenditure political advertisement, and BCS was thus required to use the "NOTICE TO VOTERS" language in its sponsor identification, and to include a listing of its top five contributors.

In accordance with past agency practice, BCS will receive a sponsor identification warning letter, cautioning the committee to include proper sponsor identification in all future political advertisements, and stating that failure to comply in the future will result in more formal enforcement. For political advertising that qualifies as an independent expenditure, as defined in RCW 42.17.020(24), the additional sponsor identification requirements listed in RCW 42.17.510(2) must be included. This includes the requirement to display "NOTICE TO VOTERS" language and a list of the committee's top five contributors.

The committee will be instructed to amend its reports to indicate that expenditures for its newspaper insert were, in part, an in-kind contribution to the Anna Williams and Gary Lysne campaigns. The two candidates will be instructed to amend their reports to show receipt of the in-kind contribution from Better Community Solutions. I am enclosing copies of the letters to Better Community Solutions, Gary Lysne and Anna Williams.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against Better Community Solutions.

If you have questions, please contact Phil Stutzman at (360) 664-8853 or toll free at 1-877-601-2828 or by e-mail at pstutzman@pdc.wa.gov.

Sincerely,

Vicki Rippie
Executive Director

Enclosures

C: Better Community Solutions
 Anna Williams
 Gary Lysne
 Tom Anderson